

# Voter Residency - Suggested Changes by the ACLU of Virginia

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~~Strikethrough~~ indicates deletion from the original draft; underline indicates addition.

The following regulations shall apply in determining the residency of an application for voter registration:

1) Definitions:

- a) "Residence," "residency" or "resident," for all purposes of qualification to register and vote means and requires both domicile and a place of abode.
- b) Place of abode means a physical place where a person dwells. One may have multiple places of abode, such as a second home
- c) Domicile is a person's primary home, that place in which a person dwells and which he considers to be the center of his domestic, social and civil life.
  - i) To acquire a domicile, a person must abandon their old domicile.
  - ii) Domicile is a matter of intention.
  - iii) Once domicile is established, a change in circumstances must occur, including a change in place of abode, as well as in intent, in order to establish a new domicile.
  - iv) For any applicant, the registrar should presume that domicile is at the address of residence given by the person on the application. The registrar should not solicit evidence to rebut this presumption if the application appears legitimate on its face except as provided in § 16.

2) Required Intent:

- a) To acquire a domicile of choice in a place, a person must intend to make that place his home for ~~an unlimited period of~~ the time at least.
- b) A person who intends to remain in a location indefinitely has established the required intent for the purposes of establishing domicile.
- ~~c) A person with specific intent to abandon his current location at a fixed date in the future has not established the requisite intent for the purposes of establishing domicile.~~
  - ~~i) A college student living in dormitories or other on-campus housing shall not be considered to have a specific intent to leave his current location if the student has the intent to remain in that location for an unlimited period of time, but must vacate his dormitory at the conclusion of a semester or academic year.~~
- ~~d) A person who intends to remain in his current location for an unlimited period of time and may leave in the future, upon the happening of a future contingency, has established the requisite intent for the purposes of establishing domicile. Examples of such future contingencies include, but are not limited to: a change in job status or location, graduation from school, and medical emergencies.~~

3) Nothing in this regulation shall be construed to confer upon any person any additional privileges or benefits other than the right to register to vote and to be qualified to vote in an election.

- 4) A residence can be established in a commercial, industrial or other building that is not normally used for residential purposes if the building serves as the applicant's primary nighttime residence.
- 5) No presumption in favor of or against residence may arise merely on the basis of a person's presence or absence in the following circumstances:
  - a) while employed in the service of the Commonwealth or United States;
  - b) while engaged in the navigation of the waters of the United States or of the high seas;
  - c) while a teacher in, employed by, or a student of, any institution of learning;
  - d) while confined in any jail as a non-felon or other correctional facility; or
  - e) while a patient or confined for any reason in any nursing home, convalescent home or hospital, short term care facility, elderly or veterans' home, or like institution or private facility.
- 6) No person residing in an area within the boundaries of Virginia which has been ceded to, or acquired by, the federal government shall be denied the right to vote in elections of the Commonwealth if such person is otherwise qualified to vote in such election or elections.
- 7) In the event that a person's habitation is not a traditional residence associated with real property, then the location of the usual sleeping area for the person shall be controlling as to the residency of that person. Residency shall be broadly construed to provide the greatest opportunity to register and to vote.
- 8) If a person resides in an area lacking a specific mailing address, the person shall be asked to provide a mailing address along with a description indicating where the person resides. The description must identify the location with sufficient specificity to allow the general registrar to assign the location to a precinct. The person shall be assigned to a precinct based on the geographic description of where the qualified person resides.
- 9) A homeless person will be considered resident in the location where the homeless person usually sleeps at night. Residence requirements shall be construed broadly to provide eligible homeless persons with the opportunity to register to vote and to vote.
- 10) If a person's family lives in one precinct and the person lives during the work-week or does business in another, the person's residence is located at the precinct where the person's family lives, unless the person establishes a home in another precinct and intends to change domicile, with or without the person's family.
- 11) If a person's home is destroyed or rendered uninhabitable by fire or other disaster, the person does not lose residence in the precinct where the home is located if the person intends to return to the home when it is reconstructed or made habitable, unless he has either established a new domicile or has changed his voter registration to an address outside the precinct.
- 12) In the event that a person's residence is divided by a jurisdictional boundary line or election district boundary line, then where the bedroom or usual sleeping area for that person, with respect to the location of the boundary line at issue, shall be controlling as to the residency of that person.
- 13) The domicile of one spouse shall not automatically be presumed to be that of the other spouse, whose residence shall be determined independently in accordance with this regulation.
- 14) If a college student intends to make his home in the jurisdiction where he is physically present for the purpose of attending college ~~and has no specific intent to return to his former home after leaving school or graduating~~, then he may claim the college jurisdiction as his domicile and

residence. A college student does not need specific intent to stay in the college jurisdiction beyond graduation in order to establish domicile there

- 15) A person loses voting residence in any county/city in Virginia by registering to vote or voting in any other county/city or state.
- 16) The general registrar shall ask a person to provide additional information in support of his registration application in the following situations:
  - a) ~~The applicant fails to provide a residential address, such that the registrar is unable to place the registrant in a voting precinct. In this situation, the general registrar shall request a residential address or physical description of where the applicant resides.~~
  - b) The applicant provides a mailing address in a different county/city from his residential address. In this situation, the general registrar shall request a residential address and/or mailing address in the same county/city and ask the supplemental questions provided in § 17.
  - c) The only address provided by the applicant does not physically exist or the statewide voter registration system reports this address as a non-residential address. In this situation, the general registrar shall request a residential address or explanation as to the lack thereof, and ask the supplemental questions provided in § 17.
  - d) The applicant provides a residential address that cannot receive mail, or from which mail sent by the registrar's office is returned. In this situation, the general registrar shall ask for a mailing address in the same county/city.
  - e) The applicant provides an address that is temporary in nature. Temporary addresses shall include, but not be limited to, hotels, motels, motor homes, hospitals and other short term medical care facilities, houseboats, campgrounds or other facilities that have durational restrictions, such as a 30 day limitation, or any other transient address that would not be considered as a typical permanent residence address. Temporary addresses shall not include apartments or other facilities, such as dormitories, that provide for leases or other rental agreements of at least six months duration. In the event the applicant provides an address that is temporary in nature, the general registrar shall ask the supplemental questions provided in § 17.
  - f) Any request for additional information must be in writing.
- 17) Supplemental Questions: When warranted by the situations described in § 16 above and in addition to any information unclear on the voter registration application, the general registrar shall ask the following questions, after notifying the applicant that any response they make is subject to the same oath they took to sign the card:
  - a) Are you currently registered to vote at another address? This question should only be asked if the same question was not answered on the voter registration application.
    - i) If yes to § 17(a), what is that address, and in what county/state is that address located?
    - ii) If yes to § 17(a) or as indicated on the voter registration application, do you wish to cancel your registration in that county/city and state and register in this county/city?
  - b) ~~Do you have a specific plan to move from this county/city at a fixed date in the future?~~
- 18) Review of Supplemental Questions:

- a) If the applicant answers “yes” to the question in §17(a)(ii), the applicant has established the requisite intent for the purposes of establishing domicile. The general registrar shall notify the locality provided pursuant to § 17(a)(i) or on the voter registration application.
  - b) If the applicant answers “no” to the question in § 17(a)(ii), the applicant has not established the requisite intent for the purposes of establishing domicile.
  - ~~c) If the applicant answers “yes” to the question in § 17(b) and the answer is not dependent on a subsequent contingent event, such as graduation or a change in employment, the applicant has not established the requisite intent for the purposes of establishing domicile.~~
  - ~~d) No new or changed voter registration application is effective until an applicant satisfactorily answers any further supplemental questions. Any such answers must be in writing. If, after requesting additional information, the general registrar approves the application, the registrant shall be registered as of the date that his application was originally received by the registrar or state-designated voter registration agency, or, if mailed, on the date postmarked.~~
- 19) The State Board of Elections shall, after input from concerned citizens, provide a one page information sheet that all general registrars and third party registration groups may use when students or others in potentially temporary residences or situations ask questions or advice about the consequences of registering to vote. The State Board of Elections shall post the information sheet to the internet and provide electronic copies to all general registrars, third party registration groups who contact the State Board of Elections, and those who request it.